

### **REMARKS**

Claims 1-46 remain in the application. The actions taken are in the interest of expediting prosecution and with no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art. Moreover, the amendment or cancellation of claims herein is without prejudice to pursuing claims of different scope by way of continuing Application. Reconsideration of this application is respectfully requested.

### **Objection to the Specification**

The abstract is objected to for including reference numbers. The reference numbers have been removed rendering this objection moot.

The specification is objected to for not noting the trademark “InfiniBand.” The trademark “InfiniBand” has been amended to included the registered trademark symbol “®” per MPEP 608.01(v), rendering this objection moot.

### **35 U.S.C. § 101**

Claims 1-46 are rejected under 35 U.S.C. §101 because the claims are allegedly directed to non-statutory subject matter, specifically, the claims are allegedly not directed towards the final result that is “useful, tangible and concrete” (See *State Street*, 149 F.3d at 1373-74).

The claims have been amended more precisely claim the subject matter. Independent claims 1, 17 and 31 claim a computer subnet (claim 1) or a computer node (claims 17 and 31) having a master subnet function, database elements, replicated database elements and a set of standby subnet managers, where a standby subnet manager assumes a master subnet manager function and initializes the computer subnet using the replicated set of the database elements.

Applicants assert that having a computer subnet or computer node where a standby subnet manager assumes a master subnet manager function and initializes the computer subnet using the replicated set of the database elements is “useful, tangible and concrete” per the criteria set forth in *State Street*. Further, per the Examiner’s request, Applicants’ point out that a computer node or computer subnet where “initializing the computer subnet using the replicated

set of the database elements” takes place, is a practical application (in a computer node or computer subnet) and that the final result is “useful, tangible and concrete” (initializing the computer subnet or computer node). Applicants believe this objection is overcome and respectfully request that the claims proceed to allowance.

### **Double Patenting**

Claims 1-46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of U.S. Patent Application No. 10/676,991. Applicants respectfully submit that the terminal disclaimer accompanying this response to the Office Action overcomes this rejection.

### **Prior Art**

The references cited but not relied upon are believed not to anticipate or make obvious Applicants’ invention.

### **Summary**

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant’s attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Accordingly, this application is believed to be in proper form for allowance and an early notice of allowance is respectfully requested.

Please charge any fees associated herewith, including extension of time fees, to 502117,  
Motorola, Inc.

Respectfully submitted,

DATE: 6-19-06  
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Attachments